

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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T.R.A. DOCKET ROOM

IN RE:

PETITION OF KING'S CHAPEL)
CAPACITY, LLC FOR CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO)
SERVE AN AREA IN WILLIAMSON)
COUNTY, TENNESSEE KNOWN AS)
ASHBY COMMUNITY)

DOCKET NO. 04-00335

PETITIONER'S FIRST SET OF DISCOVERY REQUESTS

COMES NOW, the Petitioner, and makes the following discovery requests pursuant to the Tennessee Uniform Administrative Procedures Act ("UAPA") that:

Petitioner respectfully requests pursuant to UAPA § 4-5-311 that the Tennessee Rules of Civil Procedure "TRCP" as they relate to discovery apply to this action.

REQUESTS FOR ADMISSIONS

Petitioner requests that Intervenor admit or deny the following pursuant to Tennessee Rules of Civil Procedure §36.01 as referenced by UAPA § 4-5-311:

a. Admit or Deny that the wastewater facility identified in KCC's Petition for a ("CCN") is adequate for the purposes, service and needs of the community identified in KCC's Petition for a CCN.

b. Admit or Deny that Tennessee Wastewater Systems, Inc. ("TWS"), together with ON Site Capacity Development Company, ("OCD") asserts a contract for the construction, inspection, repair and maintenance of the

wastewater plant identified and attached by TWS (to the Petition to Intervene) to these proceedings.

c. Admit or Deny that the wastewater plant identified in KCC's petition for a CCN was build in strict compliance with the SOP granted in this matter by TDEC.

d. Admit or Deny that the process and/or design of the wastewater plant which is the subject of this matter is substantially the same as commonly used within the industry.

**KCC'S FIRST SET OF DATA REQUESTS
AND PRODUCTION OF DOCUMENTS**

I. Definitions

A. "Petitioner" means King's Chapel Capacity, LLC and its representatives, agents, accountants, attorneys, investigators, consultants and the like.

B. "Respondent," "you" or "your" means Tennessee Wastewater Systems and its respective representatives, agents, employees, affiliates, officers, directors, accountants, attorneys, investigators, consultants and the like.

C. "Person" or "persons" means: (1) any natural person, public or private corporation, partnership, proprietorship, joint venture, organization, association, group, company, institution, firm, governmental body, or other legal entity; (2) any parent, subsidiary division, or department thereof; and/or (3) any agent, accountant, attorney, employee, officer, director, or other representative thereof.

D. "Affiliated entity" means any persons (as defined above) who exercise common control and common ownership with Tennessee Waste System.

E. "Document" means any physical or tangible embodiment or recordation of thoughts, ideas, concepts, or expressions, and includes, but is not limited to: (1) all writings, including correspondence, letters, telegrams, telegrams, telexes, teletypes, cables, contracts, mortgages, agreements, loan files, notes, drafts, memoranda (including inter-office communications), wire advices, log books, press releases, speeches, records, reports, appraisals, diary entries, graphs, charts, tables, blueprints, polls, surveys, tests, analyses, projections, articles, books, booklets, manuals, journals, pamphlets, newspapers, magazines, photographs, minutes, invoices, ledgers, checks, work papers, summaries, evaluations, desk calendars, appointment books, and notices; (2) all audio or visual recordings, including photographs, paintings, sketches, tape recordings, x-ray films, movies, and holographs; (3) all information contained in electronic computer storage, including electronic mail, punch cards, magnetic disks, magnetic tapes, paper tapes, laser disks, and information stored in RAM or ROM memory; and (4) all physical representations, including models, printing plates, and molds. For the purpose of this definition, each nonidentical version of a document, including, but not limited to, drafts, copies bearing handwritten or other marks, notations, or stamps, or variations, is considered a separate document.

F. "Communication" means any utterance or written notation, or statement of any nature whatsoever, by and to whomsoever made; including, but not limited to, conversations, dialogues, discussions, interviews, consultations, negotiations, correspondence, agreements, and other understandings between or among two or more persons.

G. "Identify" shall mean:

(1) when used in reference to a "person," to provide (a) with regard to a natural person his or her full name, the person's present or last known address and telephone number, and the person's present or past relationship or capacity, if any, with any part to this lawsuit; and (b) with regard to a corporation or other non-natural person the name of the person, a description of the person (e.g. corporation, partnership, etc.), and its present or last known address and telephone number.

(2) when used reference to a "document," to state (a) the type, character, and substance of the document, and to identify all persons who participated in the creation of the document, who signed the document, and who are known to have seen the document or been advised of its contents; and (b) the current location of the document and all known copies and identify all natural persons who have possession or control of the document or copies.

(3) when used in reference to a "communication," to state the nature of the communication (e.g. written correspondence, telephone conversation, conversation in person, etc.) and the date of the communication, to identify all persons who participated in, or witnessed, the communication, to state

the substance of the communication, and to identify all documents in which such communication was recorded, described, or referred to.

H. When a request requires you to “state the basis of” a particular claim, allegation, defense, theory, or position, describe each fact upon which you rely to establish the validity of such claim, allegation, defense, theory, or position. Your response shall include, but is not limited to, the identification of each person, document, communication, or legal theory tending to support the claim, allegation, defense, theory, or position.

I. The terms “and” and “or” shall be construed conjunctively or disjunctively as necessary to include any information that may otherwise be construed outside the scope of these requests.

II. INSTRUCTIONS

A. These data requests and requests for production of documents are continuing in nature to the extent provided by law and if, after responding, you obtain or become aware of further information or documents that should have been included in the responses if you had been aware of the information or documents at the time of the original response, you are requested to promptly make a supplemental response.

B. With regard to any information or documents which you withhold on a claim of privilege, you are requested to state the statute, rule, or decision on which the claim of privilege is based, and to identify the information or document withheld, including the date, author, type and description of any document, in manner sufficient to apprise defendant of the existence and nature of the

information withheld and to provide the court a reasonable basis on which rule on the merits of the claim of privilege.

C. The documents requested shall be produced as they are kept in the ordinary course of business or shall be organized and labeled to correspond with the categories in the requests. The documents shall be produced for inspection and copying at the offices of Farris Mathews Branan Bobango Hellen & Dunlap, PLC, 618 Church Street, Suite 300, Nashville, Tennessee 37219.

D. If any document responsive to these requests was, but is no longer, in existence or is no longer in your possession, custody or control, state whether it (1) is missing or lost; (2) has been destroyed; (3) has been transferred voluntarily or involuntarily to others; or (4) has been otherwise disposed of, and in each instance state what disposition was made of it, the date of its disposition, the person responsible for making the decision as to its disposition and the person responsible for its disposition.

E. If a copy of this discovery request on a 3.5-inch computer disk, formatted for Microsoft Word 7.0, would be of assistance to defendant in preparing its response, please contact counsel and one will be provided.

PETITIONER'S FIRST SET OF DATA REQUESTS

1. Please provide the name and business address for each individual who prepared or assisted in preparing the answers to these data requests.

RESPONSE:

2. For Tennessee Wastewater Systems, ("TWS") and any and all of its affiliated entities or individuals, please provide the following.

- a. all current and previously used trade names;
- b. type of business organization or structure;
- c. the names of all individuals and/or entities with an ownership interest and the nature and extent of the ownership interest; and
- d. a description of the services or products offered by each such entity.

RESPONSE:

3. Please identify and describe the specific geographic boundaries of each service area for which TWS presently holds a certificate of public convenience and necessity ("CCN") to provide wastewater treatment services in Williamson County, Tennessee.

RESPONSE:

4. If TWS currently holds a CCN for the area in Williamson County in which King's Chapel Subdivision is located, please identify the basis for any right, privilege, or obligation that TWS asserts in regard to providing wastewater treatment services to King's Chapel Subdivision.

RESPONSE:

5. Please provide a detailed itemization of any and all investments made by TWS in its wastewater treatment service areas located in Williamson County, Tennessee.

RESPONSE:

6. Please identify and describe the types of wastewater treatment systems and/or facilities owned, maintained, or operated by TWS in Williamson County, and for each type of system, explain its location and how it operates.

RESPONSE:

7. Has TWS received any requests to provide wastewater treatment services to the King's Chapel Subdivision? If so, please describe each specific request in detail including but not limited to the date, subject matter, and identity of the person making the request.

RESPONSE:

8. If your answer to the preceding question is anything other than an unqualified "no," please describe, without limitation, the response by TWS to any and all such requests including but not limited to any and all terms and conditions required by TWS to provide such service.

RESPONSE:

9. For any and all wastewater treatment systems owned and/or operated by TWS in the state of Tennessee, please provide a detailed description of all services provided by TWS during the construction of such systems. If compensation for these services was charged by TWS, please provide all amounts and describe the basis for calculating the compensation

RESPONSE:

10. If TWS contends that King's Chapel Capacity, LLC should not be granted a CCN to provide wastewater treatment services to King's Chapel Subdivision, please explain in detail the basis for this contention including, without limitation, all facts and circumstances which serve as the basis for this contention.

RESPONSE:

**PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS**

1. Produce any and all contracts or memoranda of understandings by and between TWS or its affiliates, agents, entities, and individuals, development companies or local governmental agencies pertaining to the following subdivisions

- a. Saddle Springs
- b. Watkins Creek (Lewis Gardens)
- c. Clay Estates
- d. Tom Moon's subdivision

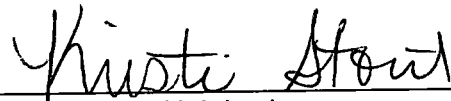
RESPONSE:

2. Produce any and all documents, correspondence, memoranda, agreements, and/or any other written or oral documentation prepared by TWS, or its affiliated entities, in conjunction with the construction, operation, and/or maintenance of a wastewater treatment system/facility at the King's Chapel Subdivision

RESPONSE:

Respectfully submitted,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC

A handwritten signature in cursive script, reading "Kristi Stout", is written over a horizontal line.

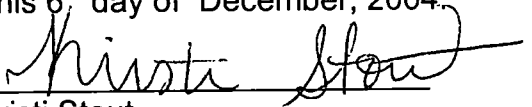
Charles B. Welch, Jr.
Kristi Stout
Attorneys for Petitioner
618 Church Street, Suite 330
Nashville, TN 37219
(615) 726-1200

CERTIFICATE OF SERVICE

The undersigned hereby certified that the foregoing document has been served upon the following person/s by hand delivery or by United States Mail, with proper postage thereon and by facsimile.

Henry Walker, Esquire
Boult, Cummings, Conners & Berry, PLC
414 Union Street, Suite 1600
P.O. Box Nashville, Tennessee 37219

This 6th day of December, 2004.



Kristi Stout